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Judge Rosanna Malouf Peterson

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

Samuel Salmon and Roxy Salmon,
Plaintiff,
vs.
Bank of America, N.A., Recontrust,
M.E.R.S., M.E.R.S.corp Inc.,
Defendant

Case No. 2:10-CV-00446-RMP
MEMORANDUM IN SUPPORT OF:
MOTION FOR MOTION TO
RECONSIDER

1) Comes now the Plaintiffs hereinafter (the Salmons) before the Court with this **MOTION TO RECONSIDER THE SALMONS MOTIONS AND THE ORDER TO DISMISS** for these reasons:

a) Bank of America, N.A. shows they are not the Notes holder in due course by showing that Federal National Mortgage Association (Fannie Mae) owns the Note as shown in (Salmons' ECF No. 20 Exhibit ..G), thereby rendering the defendants M.E.R.S., and Bank of America, *et al* foreclosure proceedings fraudulent.

1 **b)** BANK OF AMERICA, N.A. in (Salmons' ECF No. 20 Exhibit ..G) not only
2 admit they are not the Notes owner, or beneficiary, but has also
3 attached a forged Note with its payoff demand documents, this is
4 hereby also noted as fraud and forgery pursuant :

5 i) RCW 9A.60.020 Forgery to "falsely makes, completes, or alters a
6 written instrument".

7 ii) 18 USC § 513. Securities of the States and private entities (a)
8 Whoever makes, utters or possesses a counterfeited security of a
9 State or a political subdivision thereof or of an organization, or
10 whoever makes, utters or possesses a forged security of a State or
11 political subdivision thereof or of an organization, with intent to
12 deceive another person, organization, or government shall be fined
13 under this title [1] or imprisoned for not more than ten years, or
14 both.

15 iii)(c) For purposes of this section—(1) the term "counterfeited"
16 means a document that purports to be genuine but is not, because it
17 has been falsely made or manufactured in its entirety;

18 iv) To falsely make a Note is forgery, and a punishable crime pursuant
19 18 US Code § 493 "Whoever falsely makes, forges, counterfeits or
20 alters any Note".

21 **c)** The defendants also have issued notices of trustee's sale to the
22 Salmons by numerous certified mailings post marked Oct 21, 2010 and
23 May 19, 2011. Attached with the notice of trustee's sale, the
24 envelope(s) contain forged Notes issued to the Salmons. A false Note
25 or forgery was thereby again presented as a debt owed. Several of

1 these certified notices remain unopened in safe keeping as evidenced
2 of forgery.

3
4 **1) BANK OF AMERICA, N.A.s' FAILURE TO COMPLY WITH**
5 **SALMONS' QUALIFIED WRITTEN REQUEST**
6 **WITHIN 60 DAYS PURSUANT 12 USC 2605 (e)(2)**
7

8 1. Bank of America, N.A. failed to respond to the Salmon's qualified written
9 request, or dispute of debt shown in (Salmons' ECF No. 20 Exhibit .J)
10 which was forwarded to BANK OF AMERICA, N.A. via the OFFICE OF THE
11 COMPTROLLER OF THE CURRENCY as shown in (Salmons' ECF No. 20
12 Exhibit .I) under the OFFICE OF THE COMPTROLLER OF THE CURRENCY
13 case# 01306002, pursuant 12 USC 2605 (e).

14 a) BANK OF AMERICA, N.A. ignoring the warnings proceeded to foreclose
15 on the Salmons' real property knowing their claim as the Note's
16 beneficiary was fraud as shown (Salmons' ECF No. 20 Exhibit .G)
17 pursuant RCW 61.24.030(7)(a).

18 b) The sixty day time requirement to answer and settle the qualified
19 written request, or dispute of debt pursuant 12 USC 2605 (e)(2) has
20 long since expired.

21 c) BANK OF AMERICA, N.A. has failed to provide the required servicing
22 agreement to the Salmons' "Note" shown in ECF No. 20 Exhibit G,
23 pursuant 12 USC 2605 (e).

24 d) BANK OF AMERICA, N.A. has failed to correct and settle their account
25 and refund fraudulently collected payments from the Salmons' Note

1 before a legal assignment was filed with the Stevens county recorder
2 (Salmons' ECF No. 20 Exhibit .D) pursuant RCW 65.08.070.

3 e) The assignment transfer (Salmons' ECF No. 20 Exhibit D) is a
4 fraudulent assignment as the claimant beneficiaries M.E.R.S., and
5 BANK OF AMERICA, N.A. et al., are not the Note's "holder in due
6 course" therefore not legal parties to the Salmons' Note as their claim
7 states in the assignment pursuant RCW 61.24.005 (2).

8 i) Defendant again shows fraud in their alleged position as the
9 qualified loan beneficiary, or servicer pursuant :

10 (1) 12 USC 2605 §§ (a) (b) (c). **Notice by transferee of loan**
11 **servicing at time of transfer**

12 (2) (1) Notice requirement: Each transferee servicer to whom
13 the servicing of any federally related mortgage loan is assigned,
14 sold, or transferred shall notify the borrower of any such
15 assignment, sale, or transfer.

16
17
18 **2) BANK OF AMERICA N.A. et al, and MERSCORP et al,**

19 **HAVE CONSENTED TO:**

20 **UNITED STATES OF AMERICA et al, CEASE AND DESIST ORDERS**

21 **1. BANK OF AMERICA, N.A. when claiming to be the beneficiary of the**
22 **Salmons' Note had knowledge of their criminal fraud as admitted in their**
23 **own letter shown in ECF No. 20 Exhibit G.**

24 i) Also Pursuant to the Cease and Desist Consent Orders issued to
25 MERSCORP, Inc., and the Mortgage Electronic Registration Systems,

1 Inc., and Bank of America, N.A. and issued by the UNITED STATES
 2 OF AMERICA DEPARTMENT OF THE TREASURY, and
 3 COMPTROLLER OF THE CURRENCY *et al*, as shown in CONSENT
 4 ORDER OCC No. AA-EC-11-20, Board of Governors Docket Nos. 11-
 5 051-B-SC-1, 11-051-B-SC-2, FDIC-11-194b, OTS No. 11-040, FHFA
 6 No. EAP-11-01, and OCC No. AA-EC-11-12 finds deficiencies and
 7 unsafe or unsound practices identified by the Agencies.

8 ii) Also as shown in BANK OF AMERICA, N.A.'s letter and Note forgery
 9 shown in ECF No. 20 Exhibit G, and in spite of the ATG's letter to the
 10 Trustees, and Salmon's original complaint, dispute of debt
 11 forwarded to BANK OF AMERICA, N.A. *et al*, by the OFFICE OF THE
 12 COMPTROLLER OF THE CURRENCY as shown in (Salmons' ECF No.
 13 20 Exhibit .J, I, and L).

14 **2.** The Salmons' concur with these findings that the defendants M.E.R.S., and
 15 MERSCORP INC. *et al*, are fraudulent, or "unsafe" in their actions in
 16 assigning the deed of trust to BANK OF AMERICA, N.A. *et al*, a non-
 17 beneficiary pursuant RCW 62A.5-109, and RCW 9A.60.050:

- 18 a. For misrepresenting themselves as the beneficiary of the Note as
 19 defined in RCW 61.24.005 shown in (Salmon's Exhibit A).
- 20 b. For misrepresenting themselves as the beneficiary of the Note as
 21 defined in RCW 61.24.005 shown in (Salmon's Exhibit B).
- 22 c. For misrepresenting themselves as the beneficiary of the Note as
 23 defined in RCW 61.24.005 and fraudulently assigning a new
 24 beneficiary shown in (Salmons' ECF No. 20 Exhibit ..D).

- d. For approving the deed of trust assignment signatures which are clearly fraudulent because the signatures are dated several days before they were notarized. Also the signer shown in the position of assistant secretary for M.E.R.S. also holds the same title for Bank of America, and signed for both M.E.R.S. and Bank of America to reassign the beneficiary of the Note shown in (Salmons' ECF No. 20 Exhibit ..D).
- e. For these reasons also the Salmons find the security for the Note, or the deed of trust with M.E.R.S., or Bank of America, N.A. et al, as beneficiary to be fraud.

3. In light of these findings the Salmons request the court take judicial notice of Salmons' ECF No. 20 Exhibits (A, B, D, G, I, J) pursuant **Fed. R. Evid. 201** as evidence for this Summary Judgment, specifically Salmons' Exhibit .G) in regards to the admission that BANK OF AMERICA, N.A. *et al*, is not the beneficiary, or "holder in due course" of the Salmons' Note, or negotiable instrument pursuant **UCC § 3-302**.

a. **Fed. R. Evid. 201**. A district court *must* take judicial notice "if requested by a party and supplied with the necessary information." *Id.* at 201(d). A court may take such notice "at any stage of the proceeding." *Id.* at 201(f).

i. The Salmons hereby point out that pursuant RCW 61.24 the Washington State Attorney General in his letter to the trustees; the trustees are required to identify the owner of the loan to make sure there is a clear chain of title.

b. WHICH, also means that M.E.R.S. ILLEGALLY assigned Bank of America's subsidiary BANK OF AMERICA, N.A. Home Loans

1 Servicing LP FKA Countrywide Home Loans Servicing LP, as the
2 “beneficiary” by in the “Corporation Assignment of the Deed of
3 Trust”, recorded in The Stevens County Records Office under file#
4 2012 0007023 and 2012 0007024 .

5 **4.** The Salmons know that M.E.R.S. is named as “beneficiary” on the deed of
6 trust although this does not mean the Salmons by signing this deed of
7 trust become the authority in defining the term “beneficiary”. The very
8 description of the defendant, M.E.R.S. on the face of the deed of trust is
9 evidence of fraud. M.E.R.S. by its own language is merely a nominee and
10 does not comply with the true meaning of beneficiary, and was not
11 referenced on the Note in any form. M.E.R.S. has never, owned, or held the
12 Note neither has any vested interest in the Salmons’ real property nor has
13 the authority to collect on the Note, or to assign the Note’s security to any
14 party. In short M.E.R.S. actions are entirely illegal in the mortgage
15 business.

16 **5.** The Salmons find M.E.R.S. has devised a system in which to defraud the
17 county assessors, property owners pursuant our US and Local Codes
18 causing their fraud and forgeries to be overlooked in some cases. There
19 claim as beneficiary is outright fraud as M.E.R.S. claim as nominee, does
20 not have enforceable rights as an interested party unless it is the holder in
21 do course, and the real “beneficiary” of the Note. M.E.R.S. was designed
22 from the beginning to be an efficient fraudulent foreclosure machine, and
23 though M.E.R.S. fraud has been exposed several times.

24 **6.** The National Banks and M.E.R.S. can’t prove their standing as beneficiary,
25 holder in due course, or servicer because the Note was split from the

1 security instrument when it was sold to through a REMIC and converted
2 into a stock or RMBS. After this transaction there is no enforcement
3 mechanism available under the deed of trust, because once the deed of
4 trust and Note are split there is no way to rejoin them.

5 7. The Government Sponsored Enterprise (GSE) who purchased the Note
6 used Government funds, or (US tax dollars) to purchase the Note.

7 8. Defendants' actions also show fraud because the defendants are not a
8 "party in interest", pursuant R. Civ. P. 17 (a).

9 9. (08-45120-Peter A. Jacobson and Maria E. Jacobson) UNITED STATES
10 BANKRUPTCY COURT WESTERN DISTRICT OF WASHINGTON; DECISION
11 ON RELIEF FROM STAY; issued by Judge Phillip H. Brandt, entered on
12 Docket Mar. 06, 2009. "CONCLUSION As the motion was not brought in
13 the name of the real party in interest, nor has standing to bring it been
14 established, it will be DENIED. /// — END OF DECISION — ///".

AFFIDAVIT AND DECLARATION

I, Samuel Salmon hereby declare under penalty of perjury under the laws of the United States and the State of Washington that on Tuesday, June 07, 2011, all undersigned statements to be true and correct, and I, Samuel Salmon am competent to state the matters set forth herein, that the contents are true, correct, complete, and certain, admissible as evidence, and reasonable and just in accordance with Affiant's best firsthand knowledge and understanding.

Dated this Tuesday, June 07, 2011

s/ Samuel Salmon
Salmon Residence
917C Philpott Rd.
Colville, WA 99114
Samuel Salmon
Roxy Salmon

CERTIFICATE OF SERVICE

I hereby certify that on Tuesday, June 07, 2011, I filed the foregoing document with the Clerk of Court. I certify that a true and correct copy of said document was sent to all case participants in the following manner: CM/ECF.

List Of Alleged Participants: Tuesday, June 07, 2011

s/ Samuel Salmon

Lane Powell Office
John S. Devlin III WSBA # 23988
Abraham K. Lorber, WSBA # 40688

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